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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,982	02/22/2002	Roger L. Johnston	1266.015	9956

7590 10/20/2004

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EXAMINER

CHIN, PAUL T

ART UNIT PAPER NUMBER

3652

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/080,982

Applicant(s)

JOHNSTON, ROGER L.

Examiner

PAUL T. CHIN

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-8 is/are allowed.
- 6) ☒ Claim(s) 1 and 10-20 is/are rejected.
- 7) ☒ Claim(s) 2 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____  | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. Applicant's amendment and the arguments filed July 21, 2004 have been carefully fully considered. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection. A non-final office action follows below

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,10-14, and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Matovich (4,491,452).

Matovich (4,491,452) discloses a mobile vehicle and method to lift a load, comprising first, second, and third booms (A,A,A) (see Fig. 1 Exhibit A), each of which having a mobile base (14,16) that is independently support on the ground and a vertically extendible lift leg (12,18) supported on the base; and the first boom laterally between the second and third booms (see Exhibit A, and a plurality of horizontal beams (B,B,C,C) substantially interconnected the lift legs, and one of the beams is extendable to increase the horizontal spacing between the two beams.

Re claims 11-14 and 20, the mobile base having a wheel rotatable around 360 degree.

4. Claims 1,10,11, and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson (4,934,893).

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Johnson (4,934,893) discloses a mobile vehicle and method to lift a load, comprising first, second, and third booms (12,14,16) (see Fig. 1), each of which having a mobile base (24) that is independently support on the ground and a vertically extendible lift leg (42,46) supported on the base; and the first boom laterally between the second and third booms, and a plurality of horizontal beams (50,64,84) substantially interconnected the lift legs, and one of the beams is extendable to increase the horizontal spacing between the two beams.

Re claims 11-14 and 20, the mobile base having a wheel rotatable around 360 degree.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Matovich (4,491,452) in view of Gordon (3,381,833) (see PTO-892).

Matovich (4,491,452), as presented in section 3 above, does not show a *hydraulic cylinder* to lift beams. However, Gordon (3,381,833) shows a *hydraulic cylinder (24)* as a lifting power source, and it would have been obvious design choice to provide a *hydraulic cylinder* (instead of threaded screw) on each leg of Matovich (4,491,452) as taught by Gordon (3,381,833) in order to facilitate for a user to lift the load without great effort.

***Allowable Subject Matter***

7. Claims 3-8 are allowed.

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8. Claims 2 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

9. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (703) 305-1524. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (703) 308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



PAUL T. CHIN  
Examiner  
Art Unit 3652

Exhibit A

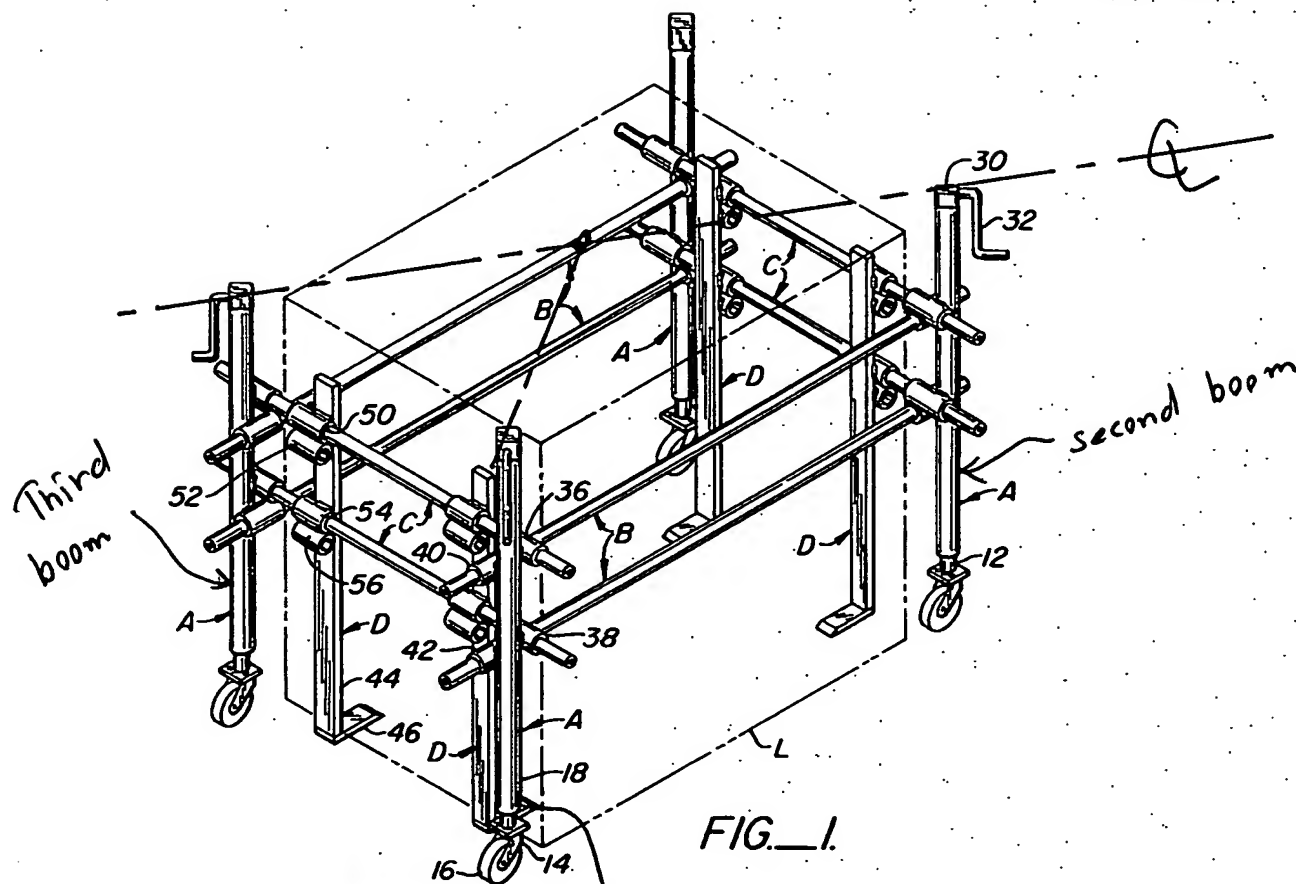


FIG. 1.

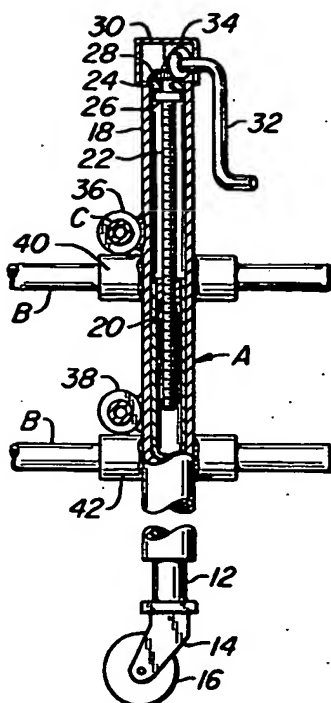


FIG. 2.

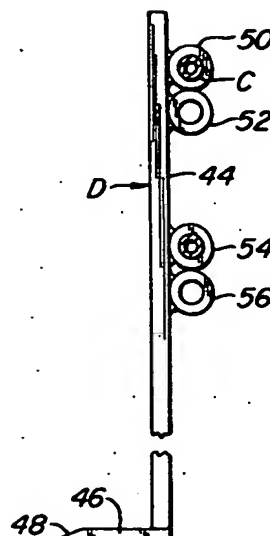


FIG. 3.